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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/758,459  | 01/15/2004  | Thomas Lummis        | 40661-031           | 5873             |
| 29493   | 7590        | 04/13/2006           |                     | EXAMINER         |
| HUSCH & EPPENBERGER, LLC<br>190 CARONDELET PLAZA<br>SUITE 600<br>ST. LOUIS, MO 63105-3441 |             |                      | MAI, TRI M          |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3727                |                  |

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/758,459             | LUMMIS ET AL.       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Tri M. Mai             | 3727                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____ .   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>05/03/04 ; 04/30/04</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____ .                                   |

Art Unit: 3727

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the buckle in claim 1, the strap passing through the loop in claims 2, 8, and 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Claims 1-7, 9-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the recitation “a channel at a bottom of the first and second end wall members” is inconsistent. It is unclear whether two channels on the two end walls are being claimed since only one channel being claimed. Applicant is requested to clarify the matter.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Porter (5904243), or in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Porter in view of Swasey (2402709). Porter teaches the placing of a cover, the threading a securing strap through a channel in the cover and through first and second, Porter meets all claimed limitations except for threading the securing strap through first and second support straps. It would have been obvious to one of ordinary skill in the art to eliminate the rings and thread the securing strap through first and second support straps since it is obvious to eliminate the rings when its function is not desired. See, Ex parte Rainu, 168 USPQ 375 (PTO Bd. Of App. 1969). Furthermore, Swasey teaches that it is known in the art to have the securing strap 15 passing through the support straps without the rings. It would have been obvious to one of ordinary skill in the art to eliminate the rings and thread the securing strap through first and second support straps to save material.

4. Claims 1, 2, 3, 5, 6, 9-11, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porter (5904243) in view of Horwath (2003/0226846) or Gallagher. Porter teaches a top member 3.31 a first wall member 3.301 defining a first gap 3.7 at approximately at a midpoint of the first side wall member, a second sidewall member, first and second end wall 3.37, a channel at one of the bottom, fist and second support straps 3.305, a buckle (col. 14, ln. 21). It would have been obvious to one of ordinary skill in the art to provide the channel on the other end walls to keep the strap and the cover together and/or to provide added security.

Regarding claim 2, it would have been obvious to one of ordinary skill in the art to eliminate the rings and having the securing strap passing through the loop since it is obvious to eliminate the rings when its function is not desired. See, Ex parte Rainu, 168 USPQ 375 (PTO Bd. Of App. 1969).

There are two triangular sections in each of sidewalls as claimed. It is noted that the term section is broad, there are a plurality of section in the cover of Porter, include a triangular section as claimed.

To the degree it is argued that the cover of Porter does not teach the triangular sections, it would have been obvious to one of ordinary skill in the art to make the cover from various sections including triangular sections because construction of a product in unity or diversity would have been an obvious choice of manufacturing or convenience. See, In re Zabel et al. 38 C.C.P.A., 832, 186 F.2d 735, 88 USPQ 367.

5. Claim 2, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porter (5904243) in view of Swasey (2402709). Swasey teaches that it is known in the art to have the securing strap passing through the support straps without the rings. It would have been obvious to one of ordinary skill in the art to eliminate the rings and thread the securing strap through first and second support straps to save material.

6. Claims 4, 7, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Porter rejection as set forth above, and further in view of Campbell (2705461) or Frieder et al. (3011820). Campbell teaches that it is known in the art to provide diamond shaped loops at the edge of a cargo net. Furthermore, Frieder teaches that it is known in the art to provide diamond

shaped loops from a support strap. It would have been obvious to one of ordinary skill in the art to provide diamond shaped loop from the support straps to provide an alternative shape loop.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai  
Primary Examiner  
Art Unit 3727